

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rulemaking to Further)	WC Docket No. 11-42
Reform The Lifeline Program)	
)	
Lifeline and Link Up Reform)	WC Docket No. 11-42
and Modernization)	
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	

REPLY COMMENTS OF THE LIFELINE REFORM 2.0 COALITION

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SUMMARY

At the outset it should be noted that the comments demonstrate that the parties uniformly support the reforms adopted by the Commission in last year's *Lifeline Reform Order* and believe that the reforms are making substantial inroads to reducing waste, fraud and abuse in the Lifeline program resulting in savings to the program of hundreds of millions of dollars every year. The parties further agree that the reforms should be given time for full implementation to affect the desired changes and the commenters in particular have focused on the most important reform—the National Lifeline Accountability Database—which should be implemented in five states by the end of this year and more broadly at the beginning of next year.

However, the comments also demonstrate widespread support in favor of the Commission initiating a rulemaking to consider additional reforms to “further protect the integrity of the Lifeline program.” Many of the parties have worked closely together to refine the Coalition proposals and develop compromises, which has resulted in the vast majority of parties coalescing around a common set of principles and proposals for reform as largely reflected in the comments filed.

The following modified and refined principles and proposals have garnered wide support among the commenting parties, especially with respect to wireless eligible telecommunications carriers (“ETCs”) that are providing the vast majority of the Lifeline services today:

- (1) ETCs should be required to verify the identity of Lifeline applicants as part of the enrollment process, which could effectively be accomplished by viewing photo identification, by utilizing a database check or through other reasonable means;**
- (2) ETCs should be permitted to retain copies of applicants' documentation of eligibility with proper protections for subscriber privacy;**

- (3) ETCs should be required to conduct a non-commission-based review and approval of all enrollments before the ETC activates service or seeks reimbursement from the Lifeline program;**
- (4) ETCs should be required to provide access to live customer service during reasonable and posted hours, and by dialing 611 with no decrement to allotted minutes of service;**
- (5) ETCs should be required to de-enroll subscribers upon request within five (5) business days;**
- (6) The Commission should impose comprehensive biennial compliance audits for all ETCs, not just those that are new entrants to Lifeline or receive \$5 million or more annually; and**
- (7) ETCs should exert reasonable internal controls over enrollment locations.**

These widely supported proposed reforms could be useful and effective in addressing lingering concerns and perceptions about the potential for waste, fraud and abuse in the Lifeline program.

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REPLY COMMENTS OF THE LIFELINE REFORM 2.0 COALITION

The Lifeline Reform 2.0 Coalition (“Coalition”),¹ by and through its undersigned counsel and pursuant to the Commission’s *Public Notice* in the above-captioned proceeding,² respectfully submits these reply comments in response to the Coalition’s Petition for Rulemaking to Further Reform the Lifeline Program (“Petition”).³

In its Petition, the Coalition requests that the Commission initiate a rulemaking proceeding to consider and adopt additional reforms designed to further reduce waste, fraud and abuse in the Lifeline program. Widespread support exists among the commenting parties for the

¹ This coalition is comprised of Blue Jay Wireless, LLC; Boomerang Wireless LLC; Global Connection of America Inc.; i-wireless LLC and Telrite Corporation, competitive eligible telecommunications carriers (“ETCs”) that provide wireless service to eligible low-income consumers in numerous states.

² See *Wireline Competition Bureau Seeks Comment on Lifeline Reform 2.0 Coalition’s Petition for Rulemaking To Further Reform The Lifeline Program*, WC Docket No. 11-42, Public Notice, DA 13-1576 (rel. July 15, 2013).

³ See *Lifeline Reform 2.0 Coalition’s Petition for Rulemaking To Further Reform The Lifeline Program*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed June 28, 2013) (“Petition”).

Commission to initiate a rulemaking proceeding to consider further Lifeline reforms. In addition, a substantial industry consensus has developed around a core set of proposed reforms, as discussed below.

I. Introduction and Summary

At the outset it should be noted that the comments demonstrate that the parties uniformly support the reforms adopted by the Commission in last year's *Lifeline Reform Order*⁴ and recognize that they are making substantial inroads to reducing waste, fraud and abuse in the Lifeline program and saving the program hundreds of millions of dollars every year.⁵ The parties further agree that the reforms should be given time for full implementation to affect the desired changes and the commenters in particular have focused on the most important reform—the National Lifeline Accountability Database⁶—which should be implemented in five states by the end of this year and more broadly at the beginning of next year.⁷

⁴ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11, (2012) (“*Lifeline Reform Order*”).

⁵ Sprint begins its comments with the following. “The broad reforms adopted by the Commission last year have had a major impact on the Lifeline program and have done much to improve the efficiency and efficacy of the program, generating hundreds of millions of dollars to date in reduced Lifeline spending.” Comments of Sprint Corporation, WC Docket No. 11-42 at 1-2 (Aug. 14, 2013) (“Sprint Comments”). Likewise, “Nexus believes the Commission’s initial reform efforts implemented through the *Lifeline Reform Order* have already achieved dramatic results, which will be further amplified once the NLAD becomes fully operational.” Comments of Nexus Communications Inc., WC Docket No. 11-42 at 1-2 (Aug. 14, 2013) (“Nexus Comments”).

⁶ Although USTelecom does not support the proposed reforms, it too believes that the most important reform is the NLAD. “The Commission should address negative perceptions of the Lifeline program by ensuring that the program is run with processes that ensure the highest degree of integrity including vigorous enforcement of its rules and prompt implementation of the [NLAD].” Opposition of the United States Telecom Association, WC Docket No. 11-42 at 2 (Aug. 14, 2013). Sprint agrees that “[o]ther pending measures – most notably, the duplicates database...scheduled to become operational in

However, the comments also demonstrate widespread support in favor of the Commission initiating a rulemaking to consider additional reforms to “further protect the integrity of the Lifeline program.”⁸ Many of the parties have worked closely together to refine the Coalition proposals and develop compromises, which has resulted in the vast majority of parties coalescing around a common set of principles and proposals for reform as largely reflected in the comments filed.

the future will be powerful tools to further improve the program.” Sprint Comments at 2. Cricket also notes that it “has urged the Commission to focus on more fundamental and impactful reforms, such as implementing the National Lifeline Accountability Database....” Comments of Cricket Communications, Inc., WC Docket No. 11-42 at 1 (Aug. 14, 2013) (“Cricket Comments”). Finally, TracFone stated that “the availability of effective, current and reliable databases...is the ultimate Lifeline fraud prevention solution.” Comments of TracFone Wireless, Inc., WC Docket No. 11-42 at 2 (Aug. 14, 2013) (“TracFone Comments”).

⁷ See USAC Webinar Training, The Lifeline Program: National Lifeline Accountability Database (June 19, 2013), available at [http://usac.org/res/flash/li/online-learning/nlad/data/downloads/national%20lifeline%20accountability%20database%20webinar%20\(june%202013\).pdf](http://usac.org/res/flash/li/online-learning/nlad/data/downloads/national%20lifeline%20accountability%20database%20webinar%20(june%202013).pdf).

⁸ Comments of the Public Utilities Commission of Ohio, WC Docket No. 11-42 at 4 (filed Aug. 14, 2013) (“PUCO Comments”). “Sprint supports the request for a rulemaking, as well as certain of the Coalition’s proposed reforms.” Sprint Comments at 1. “Cricket believes that the public interest would benefit from broader consideration of these proposals in the context of a rulemaking proceeding.” Cricket Comments at 2. Further, “Cricket shares the Coalition’s goal of curbing ‘waste, fraud, and abuse in the Lifeline program’ and supports several of the specific proposals advanced by the Coalition.” *Id.* at 1. “Nexus applauds the Coalition for making its carefully considered further reform proposals, many of which Nexus supports....” Nexus Comments at 2. “TracFone concurs with the Lifeline Coalition that further reforms would be appropriate....” TracFone Comments at 2. Finally, PUCO “encourages the FCC to grant the petitioners’ requests to undertake a rulemaking to consider additional rules to further protect the integrity of the Lifeline program.” PUCO Comments at 4.

USTelecom and the Independent Telephone and Telecommunications Alliance (“ITTA”) generally oppose the Coalition’s petition for rulemaking and the proposals contained therein. The objections are based largely on these associations’ view that the proposed reforms are primarily applicable to wireless Lifeline service providers. The Coalition understands that there are certain aspects of the wireline Lifeline business that are different. The Coalition members have supported allowing incumbents to exit the Lifeline business and the Commission should consider whether some or all of the modified proposals contained herein should not apply to wireline Lifeline providers. There is ample precedent for such disparate treatment since the *Lifeline Reform Order* imposed specific requirements regarding activation and non-usage on “prepaid” service providers, which generally do not apply to wireline Lifeline services.

II. The Vast Majority of ETC Commenters Support a Common Set of Additional Reform Principles and Proposals

Although the commenters did not support all of the proposals,⁹ the vast majority of commenters, especially the wireless Lifeline service providers, have coalesced around a common set of reform principles to further combat waste, fraud and abuse.

A. The Vast Majority of ETC Commenters Agree That ETCs Should Be Required to Verify the Identity of Lifeline Applicants

After discussions with other Lifeline ETCs and public interest groups, the Coalition has modified its proposal from requiring that ETCs view photographic identification during the Lifeline enrollment process¹⁰ to requiring that ETCs verify the identity of Lifeline

⁹ Several proposed reforms have not garnered widespread support. First, the requirement to name other ETCs at enrollment should sunset from compliance plans with the implementation of the NLAD. In its Petition, the Coalition highlighted the disparity in Lifeline compliance requirements due to the evolving compliance plan process. One such requirement, that does not apply to all ETCs, is the requirement to name other ETCs in the state at enrollment to highlight the one-per-household rule. Since this requirement is designed to reduce duplicate enrollments, which will be eradicated by the NLAD, the requirement in the compliance plans of some ETCs should sunset with the implementation of the NLAD.

Second, the commenters indicate that the proposed ban on handset resale would be duplicative of current Lifeline program rules. The Coalition sees value in clearly stating that handsets actively being used for access to Lifeline service may not be resold or otherwise transferred to supplement the existing ban on transfer of Lifeline benefits. However, the Coalition does not dispute that the requirement would be duplicative of the current rules.

Finally, many commenters believe the proposed requirement to track and report employee enrollment rejection and approval rates annually would be unduly burdensome. The Coalition members already track or are planning to track these aggregate numbers for their own control purposes and therefore would not see a requirement to report the numbers annually as burdensome. However, if other ETCs find the requirement burdensome, then the Coalition believes it is best to leave such tracking decisions up to individual ETCs who may reasonably choose other means of measuring the effectiveness of internal controls.

¹⁰ The Michigan Public Service Commission (“MPSC”) may have misunderstood the Coalition’s original proposal. The MPSC opposed the proposal because the “in-person requirement prohibits customers from subscribing by telephone and online.” Comments of the Michigan Public Service Commission, WC Docket No. 11-42 at 2 (Aug. 14, 2013) (“MPSC Comments”). Seeking to maintain a business plan neutral approach, the Coalition specifically included footnote 6 in the Petition, which carves out an exception for enrollments by phone and for Internet-based enrollments. *See* Petition at 6, n.6. In

applicants by some reasonable means as part of the enrollment process.¹¹ The identity verification could effectively be accomplished by viewing photo ID, by utilizing a database check like Lexis Nexis or Idology or by other reasonable means.¹² It is important to have options because no method is perfect.¹³ However, there is widespread support among ETCs for this principle that applicants' identity should be verified.¹⁴

Those looking at the Lifeline program from the outside are often surprised to discover that there is no identity verification requirement currently in the rules because the first principle of responsible and effective government support should be to make sure that it is only provided to those that need it and are qualified. This is a gap in the regulatory requirements that can and should be closed.

any event, the proposal has been modified and improved as discussed herein, which should also address the MPSC's concern.

¹¹ See, e.g., Lifeline Reform 2.0 Coalition and Sprint Notice of *Ex Parte* Presentation, WC Docket Nos. 11-42 03-109, CC Docket No. 96-45 at 2 (filed July 19, 2013) ("Coalition and Sprint *Ex Parte*").

¹² As discussed herein, the Coalition would support an option for eligible individuals to demonstrate their identity through reasonable means if they do not have photo ID and they are not found in an identity database, which may be more prevalent among residents of federally-recognized Tribal lands. See Comments of Smith Bagley, WC Docket No. 11-42 at 6 (filed Aug. 14, 2013) ("Should the Commission decide to adopt a photo ID requirement, any such requirement must contain an exemption allowing applicants in Tribal areas or near-reservation areas to present alternative means of identity verification, such as a utility bill, social security card, or benefits statement.").

¹³ The Coalition believes it is important for the Commission to ensure that its actions and regulations do not effectively delay or deny benefits to those consumers who are eligible for them and who have not otherwise forfeited their right to such benefits.

¹⁴ Note that "TracFone concurs with the Lifeline Coalition that there should be some codified requirement that ETCs confirm the identity of those who apply for Lifeline benefits." TracFone Comments at 5. TracFone also states that it "uses the services of a third party vendor, Lexis-Nexis, to verify applicant identity." *Id.* at 4. Sprint also "agrees that requiring some form of information corroborating the identity of a Lifeline applicant could be helpful in reducing fraud..." Sprint Comments at 2. The Coalition's modified proposal is also supported by Cricket. "Cricket supports the Coalition's proposal to require [ETCs] to check a Lifeline applicant's photo identification—or otherwise to confirm an applicant's identity, such as through the use of an identity validation database—during the enrollment process." Cricket Comments at 2. Nexus and True Wireless also support the identity verification principle, but focus on the exceptions process to the NLAD, as discussed below.

The proposed options for identity check can complement each other to ensure that only eligible consumers receive the Lifeline benefit, but also to avoid excluding eligible consumers through the identity verification process. Some eligible applicants may not have a photo ID and should not be denied Lifeline service solely for that reason,¹⁵ so checking a database would be an acceptable alternative method of identity verification. Likewise, checks against any database can result in false rejections, especially when checking low-income individuals against databases that are based largely on credit check processes, and there should be an exceptions process so that applicants can prove their identity with photo ID. Finally, some eligible individuals may not have photo ID and may also not show up in a database check because they do not have a credit history. Such individuals should be permitted to demonstrate their identity by other reasonable means, such as with utility bill documentation.

The point regarding false rejections in identity database checks is important with respect to the NLAD as well, which will use an identity verification database, but should include an exceptions process to allow applicants not found in the database to prove their identity, such as by showing a photo ID or through other reasonable means.¹⁶ This issue was specifically addressed in the comments filed by Nexus and True Wireless. For example, Nexus stated that it “supports a rule that would permit ETCs, in situations where the NLAD database search returns a negative result, to either: (a) review a valid...photo ID or (b) verify identification by searching

¹⁵ The MPSC raises the concern that a photo ID requirement “discriminates against consumers that do not have ready access to transportation to obtain the necessary identification.” MPSC Comments at 2. Whether it is due to lack of access to transportation or other reasons for not having photo ID, the Coalition recognizes this concern and offers the database check as an available alternative for identity verification, as well as the opportunity to demonstrate identity through other reasonable means, such as a utility bill.

¹⁶ The identification exceptions process was also raised by Coalition members Telrite and i-wireless at a recent meeting with Wireline Competition Bureau staff. *See* Telrite Corporation and i-wireless LLC Notice of Ex Parte Presentation, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 at 1 (filed July 26, 2013).

an independent third-party database, such as Nexis.”¹⁷ The Coalition, and it appears the vast majority of the ETC parties, would generally agree with these options for an exceptions process. However, if the vendor chosen for identity verification for the NLAD is ultimately Nexis, then a check against an alternative identity verification database or verification by other reasonable means should be included as part of an exceptions process.

B. The Vast Majority of ETC Commenters Agree That ETCs Should Be Permitted to Retain Copies of Documentation of Eligibility

Perhaps the mostly widely supported proposal among the commenters is that ETCs should at least be permitted to retain copies of applicants’ documentation of eligibility.¹⁸ This proposal was originally raised with the Commission by TracFone last year and it continues to enjoy widespread support.¹⁹

The Coalition understands the concerns raised by the Commission and other parties regarding Lifeline subscriber privacy rights, and we also seek to ensure that strict privacy

¹⁷ Nexus Comments at 3. Similarly, True Wireless proposes the same exceptions process. *See* Comments of True Wireless, LLC, WC Docket No. 11-42 at 2 (Aug. 14, 2013 (“True Wireless Comments”).

¹⁸ As the original advocate for retention of proof of eligibility, TracFone confirmed that it “concur[s] fully with the Lifeline Coalition’s proposal that ETCs be permitted to retain copies of program-based eligibility documents provided to them by Lifeline applicants.” TracFone Comments at 5. In addition, Cincinnati Bell Inc. (“Cincinnati Bell”) said that it “supports allowing retention of this information on an optional basis.” Comments of Cincinnati Bell Inc., WC Docket No. 11-42 at 3-4 (filed Aug. 14, 2013) (“Cincinnati Bell Comments”). Further, the “MPSC supports the Coalition’s proposal to require ETCs to retain copies of ID and proof of eligibility for a specified retention period.” MPSC Comments at 3. “Cricket supports the related proposal to require ETCs to retain documentation of each applicant’s program-based or income-based eligibility.” Cricket Comments at 2-3. Finally, “Sprint agrees that Lifeline service providers should retain proof of eligibility documentation and, if evidence supports the need to obtain proof of identity, should retain that information as well.” Sprint Comments at 3.

¹⁹ Nexus notes that the record in the proceeding regarding TracFone’s petition to require ETCs to retain copies of documentary proof of eligibility “revealed almost universal industry support,” including from Nexus. Nexus Comments at 3.

controls are maintained.²⁰ For that reason, the Coalition proposed in the Petition that the Commission require that the electronic storage of documentation of eligibility be encrypted according to a reasonable standard.²¹ In fact, Sprint indicated that it used to retain documentation of eligibility from Lifeline applicants in an encrypted form prior to the *Lifeline Reform Order*,²² so privacy concerns can be adequately addressed by ETCs. However, after discussions with Lifeline stakeholders, the Coalition also strongly supports the concept of having a trusted third party such as USAC or another entity retain the documentation of eligibility, rather than the ETCs.²³ In this manner, a single encryption standard can be chosen and all private information can be stored in a single location rather than at multiple locations with multiple ETCs. It is likely that this proposal would have the single largest impact on reducing waste, fraud and abuse of all of the Coalition proposals and there is uniform consensus in its favor among the parties.

²⁰ “Of course, it is imperative that Lifeline applicants’ program-based eligibility documentation be retained by ETCs in a manner that consumer privacy protections are respected and ensured. While all ETCs would be required to comply with applicable federal and state privacy laws, the Commission may want to promulgate a data encryption standard which would prevent unauthorized persons from accessing such documentation.” TracFone Comments at 6. Cricket agrees that the requirement would “require encryption of records to safeguard customer privacy....” Cricket Comments at 2.

²¹ The MPSC may have misunderstood the Coalition’s proposal. The MPSC agrees that the retained information must be secure, but does not support the proposal that ETCs must encrypt the data in a specific manner. It was not the Coalition’s intention to propose that the encryption software or standard be specified beyond what is “reasonable.” The Petition merely says the Commission should adopt an encryption requirement. *See* Petition at 7. We agree that the Commission should not require a specific encryption software or standard. However, if the Commission decides to have USAC or a third-party vendor retain the documentation of eligibility, then the Commission will likely have more of a role in choosing the level of encryption that is utilized.

²² *See* Coalition and Sprint Ex Parte at 2.

²³ Nexus similarly offered that “[t]he Commission may also wish to consider...perhaps requiring secure storage with a third-party administrator. Advance subscriber consent to retain this documentation can be obtained on ETCs’ Lifeline application and certification form.” Nexus Comments at 3-4.

C. The Vast Majority of ETC Commenters Agree That ETCs Should Implement a Non-Commission-Based Review of Lifeline Enrollments

In its Petition, the Coalition originally proposed to require that an ETC employee review and approve all Lifeline enrollments before the ETC activates service or seeks reimbursement from the Lifeline program.²⁴ This was meant to address “real or perceived risks associated with [agent-initiated] enrollments” that could be attributable to “commission-based compensation.”²⁵ After discussions with other Lifeline stakeholders, the Coalition has modified and improved its proposal to require that ETCs conduct a non-commission-based review and approval of all enrollments before the ETC activates service or seeks reimbursement from the Lifeline program.²⁶ Under this proposal, an ETC could have an employee that is not paid a commission for approving Lifeline enrollments review the application and supporting documentation or have an independent party that is not compensated based on approving an enrollment conduct the eligibility review.

There is widespread support from the commenters, and specifically the wireless Lifeline service providers, for this modified proposal.²⁷ However, TracFone raises several

²⁴ See Petition at 7.

²⁵ *Id.* at 8.

²⁶ See Coalition and Sprint *Ex Parte* at 2.

²⁷ “To the extent the Coalition seeks to prohibit the use of agents only insofar as they receive commission payment for approving Lifeline applications, Cricket is willing to support such a limitation, but it should apply equally to a company’s employees.” Cricket Comments at 4. “TracFone agrees with the Lifeline Coalition proposal that all applications for Lifeline enrollment, including all supporting documentation, must be reviewed and approved by the ETC, specifically, by non-commission-based employees of the ETC, prior to enrollment in the ETC’s Lifeline program.” TracFone Comments at 7. “True Wireless encourages the Commission to require review and approval of each Lifeline enrollment by either an employee of the ETC or a third-party contractor who is not paid on a commission basis for each application reviewed or approved.” True Wireless Comments at 3. “The Commission should continue to allow eligibility determinations to be done by a third party agent, and should encourage service providers to implement effective safeguards to help ensure the accuracy of an agent’s work. For example, the service provider can...offer a compensation package that takes accuracy

questions about the proposal, including how an ETC would be able to receive and view applicants' eligibility documentation before providing the handset and completing the enrollment process.²⁸ The answer is that ETCs that want to take advantage of the efficiencies of using third party agents paid on a commission basis to enroll customers and meet consumer demand to receive and activate a handset for Lifeline service at an enrollment location would be required to establish an Internet-based real-time review queue so that an employee or independent party that is not compensated based on a commission basis has an opportunity to review the application information and the scanned documentation of eligibility in real-time before the applicant is enrolled, given a handset and activates service. TracFone further asks how an ETC in this example would make sure that all of the documentation is from the same person.²⁹ The answer is that the ETC would match up the name and pertinent information contained on the application, with the photo ID or other identity verification check, with the documentation of eligibility, which is the same thing that TracFone presumably does when it receives a Lifeline application from its third party agents in the field or an applicant in the mail or by fax.

Finally, Cincinnati Bell objects to this proposal because its wireless business uses authorized agents to enroll Lifeline customers, which it states that it manages to make sure that they enroll customers properly and are "compensated accordingly."³⁰ Cincinnati Bell also states

into consideration." Sprint Comments at 4. It is our understanding that a "compensation package that takes accuracy into account" is different from a compensation package that provides a commission for approved enrollments. Thus, Sprint also appears to support the modified proposal. Although Nexus did not specifically address the employee or non-commission-based review of enrollments proposal, it also appears to be concerned about the incentives involved in providing commissions for enrollments. *See* Nexus Comments at 5 (indicating concerns about enrollment locations "staffed by...third-party agents, who are typically compensated based on the number of handsets distributed....").

²⁸ *See* TracFone Comments at 7.

²⁹ *See id.*

³⁰ Cincinnati Bell Comments at 4.

that if there is a problem with proper enrollment by an agent, it addresses the issue with the agent, contacts the customer to obtain the necessary information and does not seek reimbursement for that subscriber until enrollment is done properly.

To the extent that Cincinnati Bell's agents are compensated according to conducting proper enrollments and are not paid a commission per approved enrollment, Cincinnati Bell would meet the Coalition's proposed new requirement. To the extent that the agents are paid a commission based on the number of approved enrollments and Cincinnati Bell has no real-time non-commission-based review to back-check the enrollments, a perception problem could result, even where Cincinnati Bell commendably catches improper enrollments prior to seeking reimbursement. If an agent is improperly enrolling customers and handing out handsets for activation to applicants that are not eligible, the Lifeline program could be harmed, even if not financially. For this reason, the vast majority of commenting Lifeline providers support the requirement of a real-time non-commission-based review of enrollments.

D. The Vast Majority of ETC Commenters Agree That ETCs Should Provide Subscribers With Reasonable Access to Customer Service

In the Petition, the Coalition proposed a requirement that all ETCs provide access to live customer service during reasonable and posted hours, and by dialing 611 with no decrement to allotted minutes of service.³¹ The vast majority of commenters that addressed this proposal support such provision of reasonable customer service.³² As explained by Cricket, access to live customer support "would help ensure the integrity of the Lifeline program by

³¹ See Petition at 12-14.

³² "The MPSC supports the Coalition's suggestions to require all ETCs to provide access to live customer service during reasonable and posted hours by calling 6-1-1 or a toll-free number." MPSC Comments at 5. "Customer service representatives play an important role in ensuring that customers understand and can use Lifeline-supported phone service." True Wireless at 3.

allowing Lifeline customers to obtain updated information about an ETC's Lifeline offerings, confirm their continued eligibility to participate in the Lifeline program, and de-enroll easily where appropriate.”³³

Although TracFone asserts that it meets the requirement, it argues that the requirement is not necessary because as far as it is aware, “other ETCs do the same.”³⁴ The concern about reasonable customer service has been raised in several states like Oklahoma and by the Commission. The Coalition applauds TracFone's asserted commitment to customer service, but it should not assume that all ETCs follow suit. The Commission has a legitimate role to play in making sure that Lifeline customers that are receiving service paid for by the USF receive the appropriate level of support.

E. The Vast Majority of ETC Commenters Agree That ETCs Should De-Enroll Subscribers Promptly Upon Request

In the Petition, the Coalition proposed that the Commission require all ETCs to de-enroll subscribers upon request within five (5) business days.³⁵ The simple principle at issue is that Lifeline subscribers choose to participate in the Lifeline program and should be able to de-enroll at any time without being required to provide a reason or paperwork, but there is a potential incentive for Lifeline providers to retain customers because of the reimbursement. The comments demonstrate that the vast majority of commenters that addressed this proposal support it.³⁶ The MPSC agrees with the proposed requirement, “as long as customers are required to provide some type of identification or passcode to prevent unauthorized customers from

³³ Cricket Comments at 3.

³⁴ TracFone Comments at 13.

³⁵ See Petition at 14.

³⁶ See, e.g., “Cricket supports the Coalition's proposal to require all ETCs to de-enroll customers upon request.” Cricket Comments at 3.

disconnecting someone else's service.”³⁷ The Coalition agrees and notes that proper identification of the subscriber would be necessary to comply with customer proprietary network information (“CPNI”) requirements anyway. True Wireless agrees that customers should be permitted to de-enroll by phone, but offers that the same should be true on the ETC's website.³⁸ The Coalition agrees.

TracFone again states that it meets the proposed requirement, but argues that there is no need or purpose for the proposed requirement.³⁹ The Coalition understands that the Commission has received complaints related to Lifeline customers having difficulty de-enrolling from Lifeline service, perhaps because the ETC required onerous documentation or insisted on return of a handset. TracFone is to be commended that it apparently does not engage in these practices, and neither do the Coalition members, but the purpose of imposing industry-wide rules is to force all of the regulated entities to meet the appropriate standard of behavior required to ensure the integrity of the Lifeline program.

F. The Vast Majority of ETC Commenters Agree That All ETCs, Regardless of Size, Should Be Subject to Regular Audits

The vast majority of commenters that addressed this issue support the Coalition's proposal to require comprehensive biennial compliance audits for all ETCs, not just those that are new entrants to Lifeline or receive \$5 million or more annually.⁴⁰ This modest change is intended to ensure that no ETC falls through the cracks or gets overlooked because, as Cricket explains, “[r]ecent press reports and Commission enforcement action suggest that small

³⁷ MPSC Comments at 6.

³⁸ See True Wireless Comments at 4.

³⁹ See TracFone Comments at 14.

⁴⁰ See, e.g., Nexus states that “for the reasons set forth in the Petition, Nexus agrees with the Coalition that all ETCs should be subject to comprehensive compliance audits on a periodic basis.” Nexus Comments at 5.

providers are at least as likely as larger providers to violate the Commission’s rules (if not significantly more so), and there is no sound reason to exempt smaller carriers from the Commission’s principal oversight mechanism.”⁴¹ TracFone “agrees that expanded auditing would be beneficial” but cautions that the costs involved should be considered because USAC does not have unlimited resources.⁴² This is true, however, auditing is a key area of jurisdiction and competency for USAC and it is one of the primary means to ensure the integrity of the Lifeline program. Further, USAC already conducts random audits and it could simply redirect some random audits as biennial audits for smaller ETCs, which would not involve any additional costs for USAC and would not impose undue burdens on the audited ETCs.

G. Many ETC Commenters Agree That ETCs Should Exert Reasonable Internal Controls Over Enrollment Locations

The comments show general support for the principle that ETCs should exert reasonable internal controls over enrollment locations.⁴³ The Coalition proposed that ETCs be required to (i) track the location of all enrollment events; (ii) require agent check-in at locations prior to beginning enrollments; (iii) conduct photo audits of enrollment events; and (iv) conduct post-event, back-end checks for enrollment irregularities.⁴⁴ Opposition from Cricket and Nexus seems to center around the applicability of these proposed requirements to brick-and-mortar

⁴¹ Cricket Comments at 3.

⁴² TracFone Comments at 14.

⁴³ *See, e.g.*, “Although the Coalition’s...suggestions...regarding ETC control over enrollment locations are reasonable, the MPSC believes that the need for these activities will depend on how the program is implemented and should be left to the discretion of the provider.” MPSC Comments at 4-5. TracFone supports improved ETC controls at enrollment locations, but has a series of questions addressed herein. *See* TracFone Comments at 10-11.

⁴⁴ *See* Petition at 10.

stores as opposed to mobile enrollment events.⁴⁵ The Commission should consider the extent to which it is unnecessary or overly burdensome to apply certain of the proposed requirements to “store” locations, however, the proposed controls could help any ETC to ensure the existence of a compliant enrollment environment, regardless of whether it is in a tent, a big-box store, a dollar store or an ETC-branded store.

For example, TracFone asks how the proposed controls would stop a storefront from posting a sign saying “FREE GOVERNMENT CELL PHONES IN STOCK” in the window.⁴⁶ If such a sign were posted in a retail store without the ETC’s knowledge, a random photo audit of the retail location and all Lifeline signage would allow the ETC to become aware of the sign and have it removed as it is misleading to Lifeline customers.⁴⁷ The Coalition has proposed a set of common sense controls over enrollment locations and there is general support for controls, but some disagreement regarding their applicability to retail locations for the Commission and parties to consider in the context of a rulemaking proceeding.

The core of the Coalition’s proposal is that ETCs can and should exercise a reasonably high degree of control over all enrollment locations whether staffed by employees or agents, whether at a tent, outside a social welfare agency, or in a store, and certainly regardless of how many are in operation. Many of the perceived problems regarding the Lifeline program

⁴⁵ See Nexus Comments at 4 (“For brick-and-mortar locations, over which ETCs can exercise a high degree of control, Nexus believes the proposed rules are unnecessary and burdensome.”) and Cricket Comments at 5 (“the suggestion to require tracking of all ETC enrollment locations is overbroad. For an ETC with hundreds of thousands of retail locations, such as Cricket, such tracking and reporting requirements would impose dramatically increased administrative burdens.”). The Coalition proposed a slightly different set of controls for retail locations to account for the difference between mobile enrollments and store locations. See Petition at 10.

⁴⁶ See TracFone Comments at 11.

⁴⁷ TracFone also asks with whom the agent must check in. See TracFone comments at 10-11. The answer is that agent should be required to check in with the ETC prior to beginning Lifeline enrollments.

are fairly attributable to inadequate controls over employees and agents enrolling consumers outside social welfare agencies, in tents and in stores. The problem faced by the Lifeline program is not one of employees versus agents or of roving agents versus tents versus stores. Rather it is one of adequate controls designed to mitigate reasonably anticipated risks of waste, fraud and abuse.⁴⁸

III. Conclusion

The Coalition requests that the Commission initiate a rulemaking proceeding to consider and adopt additional reforms designed to further reduce waste, fraud and abuse in the Lifeline program. There is widespread support among the commenting parties for the Commission to initiate a rulemaking proceeding to consider further Lifeline reforms. In addition, a substantial consensus has developed around a core set of proposed reforms, as detailed herein.

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⁴⁸ The Coalition does not propose or support a strict liability standard.

Lifeline Reform 2.0

The Federal Communications Commission's 2012 reforms to the Lifeline program have effectively reduced waste, fraud and abuse while producing significant cost savings. In June, the Commission adopted additional reforms necessary to preserve the program. And yet, there is still more that can be done. To that end, the Lifeline Coalition proposed a comprehensive package of reforms, dubbed "Lifeline Reform 2.0," and following comments submitted to the Commission, the following proposals have garnered widespread support, especially among wireless Lifeline service providers.

The Coalition proposes **three core measures** that serve as the centerpiece of its reform package, including:

- 1. Verifying consumer identity at the time of enrollment;**
- 2. Retaining copies of proof of eligibility documentation; and**
- 3. Requiring non-commission based review and approval of enrollments prior to activation**

The Coalition's core reforms are part of a broader package of important rule modifications that the FCC should adopt and implement to reduce (real or perceived) waste, fraud and abuse in the Lifeline program. After consultation with other parties and reviewing the comments filed on the Petition, the **comprehensive package of reforms** includes the following proposed requirements:

- 1. Changes to the enrollment process**
 - (a) verify identity through database dip, review of photo identification or other reasonable means
 - (b) retention of copies of proof
 - (c) non-commission-based review and approval of all enrollments
 - (d) greater ETC control over mobile and retail in-person enrollment locations (location tracking and sign-in, photo audits, post-enrollment audits)
- 2. Mandatory access to live customer service representatives that can resolve subscriber concerns regarding enrollment, eligibility and service**
- 3. De-enrollment upon request without requiring documentation**
- 4. Comprehensive biennial compliance audits for all ETCs (not just new ones and big ones)**

The Coalition's Lifeline Reform 2.0 reform package will complement the FCC's important and effective 2012 and 2013 reform efforts by eliminating the ability of individuals to exploit gaps that presently exist among ETCs subject to varying regulatory obligations or whose business practices may not reflect current best practices to reduce waste, fraud and abuse.